



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R2-ES-2022-N205; FXES11130200000-234-FF02ENEH00]

Application for an Enhancement of Survival Permit; N.M. Ranch Properties, Inc (Armendaris Ranch) Bolson Tortoise Safe Harbor Agreement; Socorro and Sierra Counties, New Mexico

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have prepared a draft environmental assessment (EA) on the proposed *N.M. Ranch Properties, Inc.*

(Armendaris Ranch) Bolson Tortoise Safe Harbor Agreement (SHA) in Socorro and Sierra Counties, New Mexico. New Mexico Ranch Properties, Inc (applicant) submitted the SHA in support of an application for an enhancement of survival permit (permit) under the Endangered Species Act. If approved, the requested permit would authorize incidental take of the Bolson tortoise that would allow a return to the baseline population condition (i.e., zero free ranging tortoises/zero baseline) at the conclusion of the permit or sooner. Conservation and management activities for the Bolson tortoise are integral to meeting the SHA's net conservation benefit standard as well as ongoing and future activities on the enrolled property during the 50-year permit term. With this notice, we announce the availability for public comment of the SHA application, as well as the draft environmental assessment (EA), which has been prepared in accordance with the requirements of the National Environmental Policy Act (NEPA).

DATES: We will accept comments received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: *Obtaining documents:* You may obtain copies of the SHA, draft EA, or

other related documents on the internet at <https://www.fws.gov/office/new-mexico-ecological-services>.

Submitting comments: You may submit written comments by email to nmesfo@fws.gov. Please note which document(s) your comment references. For more information, see **Public Availability of Comments**.

FOR FURTHER INFORMATION CONTACT: Shawn Sartorius, Field Supervisor, U.S. Fish and Wildlife Service, Albuquerque, New Mexico, Ecological Services Office; telephone (505) 346–2525 or (800) 299–0196. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), make available for public review the *N.M. Ranch Properties, Inc. (Armendaris Ranch) Bolson Tortoise Safe Harbor Agreement (SHA)* in Socorro and Sierra Counties, New Mexico, and associated draft environmental assessment (EA). N.M. Ranch Properties, Inc. (applicant) has applied for an enhancement of survival permit (permit) supported by the proposed SHA. If approved, the requested 50-year permit would authorize incidental take of the Bolson tortoise (*Gopherus flavomarginatus*; tortoise), which is federally listed as endangered under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The permit would authorize incidental take of the tortoise resulting from conservation and management activities for the species that are integral to meeting the SHA net conservation benefit standard, as well as ongoing and future activities on the enrolled property during the permit term, and a return of the property to its baseline condition.

Background

Section 9 of the ESA and our implementing regulations at 50 CFR part 17 prohibit the “take” of fish or wildlife species listed as endangered or threatened. Take is defined under the ESA as to “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed animal species, or to attempt to engage in such conduct” (16 U.S.C. 1538(19)). However, under section 10(a) of the ESA, we may issue permits to authorize incidental take of listed species. “Incidental take” is defined by the ESA as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing such take of endangered and threatened species are found at 50 CFR 17.21–22 and 50 CFR 17.31–32, respectively.

National Environmental Policy Act Compliance

In accordance with the requirements of the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*), we advise the public that:

1. We have prepared a draft environmental assessment (EA) to evaluate the SHA and potential permit issuance. We are accepting comments on the SHA and draft EA.
2. The applicant and the Service have developed an SHA, which describes the measures the applicant has volunteered to take to meet the issuance criteria for a 10(a)(1)(A) permit associated with the SHA. The issuance criteria are found at 50 CFR 17.22(c)(1) and 50 CFR 17.32(c)(1).
3. The SHA would be implemented by the applicant and would remain effective until the expiration of the SHA.
4. As described in the SHA, the potential incidental take of the tortoise could result from otherwise lawful, activities covered by the SHA.

Proposed Action

The proposed action involves the issuance of a 10(a)(1)(A) enhancement of survival permit (permit) to N.M. Ranch Properties, Inc. (applicant) in association with the

N.M. Ranch Properties, Inc. (Armendaris Ranch) Bolson Tortoise Safe Harbor Agreement (SHA) in Socorro and Sierra Counties, New Mexico. The Bolson tortoise (*Gopherus flavomarginatus*; tortoise) was listed as endangered under the ESA on April 17, 1979 (44 FR 23062 23064), as a species native to Mexico and foreign to the United States. The tortoise was listed as a CITES Appendix II species on July 1, 1975 and elevated to Appendix I on June 28, 1979. The critically imperiled tortoise is not known to have inhabited New Mexico since European colonization. It was widely distributed across the southwestern United States after the Pleistocene glaciation and likely overlapped with Native American peoples.

The purpose of the proposed SHA is to implement population restoration activities for the tortoise through the release of captive-raised tortoises on the Armendaris Ranch in southern New Mexico. The tortoises to be released are part of an ongoing captive breeding program begun, in 2006, by the Turner Endangered Species Fund and located on Ted Turner's Armendaris Ranch in Sierra and Socorro Counties.

Implementation of the proposed SHA would also allow the natural expansion of the released tortoise population into surrounding habitat on the ranch. The permit would authorize incidental take that may result from the implementation of the proposed conservation and management measures. These measures include maintaining the existing tortoise captive breeding and head-starting program to ensure that adequate numbers of tortoises are available for release. The head-starting enclosure is an outdoor facility that is enclosed with predator proof nets that prevent mammals and birds from preying on the tortoises and houses a few hundred tortoises with the potential to translocate. The measures also include releasing, monitoring, and managing several hundred tortoises as required to establish a foundation from which viable populations (100 individuals or more) could become established at the Armendaris Ranch. In addition, the permit would authorize incidental take that may result from ongoing and

future activities on the enrolled property during the permit term, and a return of the property to its baseline condition at the conclusion of the permit.

The SHA, including the proposed conservation and management measures, was developed in coordination with the Service. The permit would allow incidental take and a return to baseline conditions on the property. The proposed conservation and management measures, once implemented, are expected to provide a net conservation benefit to the tortoise.

Alternatives

We are considering one alternative to the proposed action as part of this process, the No Action Alternative. Under No Action Alternative, the Service would not issue the permit, and the SHA would not be implemented.

Next Steps

We will evaluate the permit application, SHA, draft EA, and comments we receive to determine whether the SHA application meets the requirements of the ESA, NEPA, and implementing regulations. If we determine that all requirements are met, we will approve the SHA and issue the permit under section 10(a)(1)(A) of the ESA (16 U.S.C. 1531 *et seq.*) to the applicant in accordance with the terms of the SHA and specific terms and conditions of the authorizing permit. We will not make our final decision until after the 30-day comment period ends and we have fully considered all comments received during the public comment period.

Public Availability of Comments

All comments we receive become part of the public record associated with this action. Requests for copies of comments will be handled in accordance with the Freedom of Information Act, NEPA, and Service and Department of the Interior policies and procedures. Before including your address, phone number, email address, or other

personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

We provide this notice under the authority of section 10(c) of the ESA and its implementing regulations (50 CFR 17.22 and 17.32) and NEPA (42 U.S.C. 4371 *et seq.*) and its implementing regulations (40 CFR 1506.6).

Amy L. Lueders,
Regional Director, Southwest Region,
U.S. Fish and Wildlife Service.

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